

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

RICHARD HAYES,

Petitioner,

vs.

STATE OF NEBRASKA, and  
ATTORNEY GENERAL FOR THE  
STATE OF NEBRASKA,

Respondents.

**4:20CV3017**

**MEMORANDUM AND ORDER**

Petitioner purports to file a petition for writ of habeas corpus. It is not in proper form even given the most liberal construction<sup>1</sup> so I shall dismiss it without prejudice and direct the Clerk to send Petitioner the form for filing a § 2241 habeas corpus action. Although the Petitioner fails to provide a state case number, my independent examination of the state court records for Lancaster County, where Petitioner claims to be held, indicates that the Petitioner is a pretrial detainee.<sup>2</sup>

Furthermore, I will deny the motion for hearing for motion of replevin, without prejudice. Such a motion is not properly brought in a federal habeas corpus action.

IT IS ORDERED that:

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<sup>1</sup> See Rule 1 (b) and Rule 2(d) of the *Rules Governing Section 2254 Cases in the United States District Courts*.

<sup>2</sup> *State v. Richard W. Hayes*, CR 20 0000559, in the County Court of Lancaster County, Nebraska. (Possession of a controlled substance; Class 4 Felony.)

1. The petition for writ of habeas corpus, Filing no. 1, is dismissed without prejudice and the motion for hearing for motion of replevin, Filing no. 17, is dismissed without prejudice.
2. The Clerk shall mail to Petitioner a Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241 (AO 242). The Petitioner shall complete the form in accordance with the instructions on the form and return it to the Clerk of Court for filing in this case (4:20CV3017). If the form is not received by the Clerk of Court by the close of business on Monday, April 6, 2020, this matter may be dismissed without prejudice and without further notice.

Dated this 4<sup>th</sup> day of March, 2020.

BY THE COURT:



Richard G. Kopf  
Senior United States District Judge